



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0108

Introduced 1/31/2007, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

325 ILCS 5/3	from Ch. 23, par. 2053
705 ILCS 405/2-3	from Ch. 37, par. 802-3
705 ILCS 405/3-5	from Ch. 37, par. 803-5

Amends the Abused and Neglected Child Reporting Act and the Juvenile Court Act of 1987. Provides that a "neglected child" includes a child who has been provided with interim crisis intervention services under the Juvenile Court Act of 1987 and whose parent, guardian, or custodian refuses to permit the child to return home. Requires the DCFS Child Protective Service Unit to begin an investigation of a report concerning such a child within 24 hours after receiving the report and determine whether to take the child into temporary protective custody and whether to file a petition alleging neglect or abuse. Provides that no minor shall be sheltered in a temporary living arrangement for more than 48 hours, excluding Saturdays, Sundays, and court-designated holidays, when the agency has reported the minor as neglected or abused because the parent, guardian, or custodian refuses to permit the child to return home, provided that in all other instances the minor may be sheltered when the agency obtains the consent of the parent, guardian, or custodian or documents its unsuccessful efforts to obtain the consent or authority of the parent, guardian, or custodian, including recording the date and the staff involved in all telephone calls, telegrams, letters, and personal contacts to obtain the consent or authority, in which instances the minor may be so sheltered for not more than 21 days.

LRB095 00631 RLC 20631 b

1 AN ACT in relation to children.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Abused and Neglected Child Reporting Act is
5 amended by changing Section 3 as follows:

6 (325 ILCS 5/3) (from Ch. 23, par. 2053)

7 Sec. 3. As used in this Act unless the context otherwise
8 requires:

9 "Child" means any person under the age of 18 years, unless
10 legally emancipated by reason of marriage or entry into a
11 branch of the United States armed services.

12 "Department" means Department of Children and Family
13 Services.

14 "Local law enforcement agency" means the police of a city,
15 town, village or other incorporated area or the sheriff of an
16 unincorporated area or any sworn officer of the Illinois
17 Department of State Police.

18 "Abused child" means a child whose parent or immediate
19 family member, or any person responsible for the child's
20 welfare, or any individual residing in the same home as the
21 child, or a paramour of the child's parent:

22 (a) inflicts, causes to be inflicted, or allows to be
23 inflicted upon such child physical injury, by other than

1 accidental means, which causes death, disfigurement,
2 impairment of physical or emotional health, or loss or
3 impairment of any bodily function;

4 (b) creates a substantial risk of physical injury to
5 such child by other than accidental means which would be
6 likely to cause death, disfigurement, impairment of
7 physical or emotional health, or loss or impairment of any
8 bodily function;

9 (c) commits or allows to be committed any sex offense
10 against such child, as such sex offenses are defined in the
11 Criminal Code of 1961, as amended, and extending those
12 definitions of sex offenses to include children under 18
13 years of age;

14 (d) commits or allows to be committed an act or acts of
15 torture upon such child;

16 (e) inflicts excessive corporal punishment;

17 (f) commits or allows to be committed the offense of
18 female genital mutilation, as defined in Section 12-34 of
19 the Criminal Code of 1961, against the child; or

20 (g) causes to be sold, transferred, distributed, or
21 given to such child under 18 years of age, a controlled
22 substance as defined in Section 102 of the Illinois
23 Controlled Substances Act in violation of Article IV of the
24 Illinois Controlled Substances Act or in violation of the
25 Methamphetamine Control and Community Protection Act,
26 except for controlled substances that are prescribed in

1 accordance with Article III of the Illinois Controlled
2 Substances Act and are dispensed to such child in a manner
3 that substantially complies with the prescription.

4 A child shall not be considered abused for the sole reason
5 that the child has been relinquished in accordance with the
6 Abandoned Newborn Infant Protection Act.

7 "Neglected child" means any child who is not receiving the
8 proper or necessary nourishment or medically indicated
9 treatment including food or care not provided solely on the
10 basis of the present or anticipated mental or physical
11 impairment as determined by a physician acting alone or in
12 consultation with other physicians or otherwise is not
13 receiving the proper or necessary support or medical or other
14 remedial care recognized under State law as necessary for a
15 child's well-being, or other care necessary for his or her
16 well-being, including adequate food, clothing and shelter; or
17 who is abandoned by his or her parents or other person
18 responsible for the child's welfare without a proper plan of
19 care; or who has been provided with interim crisis intervention
20 services under Section 3-5 of the Juvenile Court Act of 1987
21 and whose parent, guardian, or custodian refuses to permit the
22 child to return home; or who is a newborn infant whose blood,
23 urine, or meconium contains any amount of a controlled
24 substance as defined in subsection (f) of Section 102 of the
25 Illinois Controlled Substances Act or a metabolite thereof,
26 with the exception of a controlled substance or metabolite

1 thereof whose presence in the newborn infant is the result of
2 medical treatment administered to the mother or the newborn
3 infant. A child shall not be considered neglected for the sole
4 reason that the child's parent or other person responsible for
5 his or her welfare has left the child in the care of an adult
6 relative for any period of time. A child shall not be
7 considered neglected for the sole reason that the child has
8 been relinquished in accordance with the Abandoned Newborn
9 Infant Protection Act. A child shall not be considered
10 neglected or abused for the sole reason that such child's
11 parent or other person responsible for his or her welfare
12 depends upon spiritual means through prayer alone for the
13 treatment or cure of disease or remedial care as provided under
14 Section 4 of this Act. A child shall not be considered
15 neglected or abused solely because the child is not attending
16 school in accordance with the requirements of Article 26 of The
17 School Code, as amended.

18 "Child Protective Service Unit" means certain specialized
19 State employees of the Department assigned by the Director to
20 perform the duties and responsibilities as provided under
21 Section 7.2 of this Act.

22 "Person responsible for the child's welfare" means the
23 child's parent; guardian; foster parent; relative caregiver;
24 any person responsible for the child's welfare in a public or
25 private residential agency or institution; any person
26 responsible for the child's welfare within a public or private

1 profit or not for profit child care facility; or any other
2 person responsible for the child's welfare at the time of the
3 alleged abuse or neglect, or any person who came to know the
4 child through an official capacity or position of trust,
5 including but not limited to health care professionals,
6 educational personnel, recreational supervisors, members of
7 the clergy, and volunteers or support personnel in any setting
8 where children may be subject to abuse or neglect.

9 "Temporary protective custody" means custody within a
10 hospital or other medical facility or a place previously
11 designated for such custody by the Department, subject to
12 review by the Court, including a licensed foster home, group
13 home, or other institution; but such place shall not be a jail
14 or other place for the detention of criminal or juvenile
15 offenders.

16 "An unfounded report" means any report made under this Act
17 for which it is determined after an investigation that no
18 credible evidence of abuse or neglect exists.

19 "An indicated report" means a report made under this Act if
20 an investigation determines that credible evidence of the
21 alleged abuse or neglect exists.

22 "An undetermined report" means any report made under this
23 Act in which it was not possible to initiate or complete an
24 investigation on the basis of information provided to the
25 Department.

26 "Subject of report" means any child reported to the central

1 register of child abuse and neglect established under Section
2 7.7 of this Act and his or her parent, guardian or other person
3 responsible who is also named in the report.

4 "Perpetrator" means a person who, as a result of
5 investigation, has been determined by the Department to have
6 caused child abuse or neglect.

7 "Member of the clergy" means a clergyman or practitioner of
8 any religious denomination accredited by the religious body to
9 which he or she belongs.

10 (Source: P.A. 94-556, eff. 9-11-05.)

11 Section 10. The Juvenile Court Act of 1987 is amended by
12 changing Sections 2-3 and 3-5 as follows:

13 (705 ILCS 405/2-3) (from Ch. 37, par. 802-3)

14 Sec. 2-3. Neglected or abused minor.

15 (1) Those who are neglected include:

16 (a) any minor under 18 years of age who is not
17 receiving the proper or necessary support, education as
18 required by law, or medical or other remedial care
19 recognized under State law as necessary for a minor's
20 well-being, or other care necessary for his or her
21 well-being, including adequate food, clothing and shelter,
22 or who is abandoned by his or her parents or other person
23 responsible for the minor's welfare, except that a minor
24 shall not be considered neglected for the sole reason that

1 the minor's parent or other person responsible for the
2 minor's welfare has left the minor in the care of an adult
3 relative for any period of time; or

4 (b) any minor under 18 years of age whose environment
5 is injurious to his or her welfare; or

6 (c) any newborn infant whose blood, urine, or meconium
7 contains any amount of a controlled substance as defined in
8 subsection (f) of Section 102 of the Illinois Controlled
9 Substances Act, as now or hereafter amended, or a
10 metabolite of a controlled substance, with the exception of
11 controlled substances or metabolites of such substances,
12 the presence of which in the newborn infant is the result
13 of medical treatment administered to the mother or the
14 newborn infant; or

15 (d) any minor under the age of 14 years whose parent or
16 other person responsible for the minor's welfare leaves the
17 minor without supervision for an unreasonable period of
18 time without regard for the mental or physical health,
19 safety, or welfare of that minor; or -

20 (e) any minor who has been provided with interim crisis
21 intervention services under Section 3-5 of this Act and
22 whose parent, guardian, or custodian refuses to permit the
23 minor to return home.

24 Whether the minor was left without regard for the mental or
25 physical health, safety, or welfare of that minor or the period
26 of time was unreasonable shall be determined by considering the

1 following factors, including but not limited to:

2 (1) the age of the minor;

3 (2) the number of minors left at the location;

4 (3) special needs of the minor, including whether the
5 minor is physically or mentally handicapped, or otherwise
6 in need of ongoing prescribed medical treatment such as
7 periodic doses of insulin or other medications;

8 (4) the duration of time in which the minor was left
9 without supervision;

10 (5) the condition and location of the place where the
11 minor was left without supervision;

12 (6) the time of day or night when the minor was left
13 without supervision;

14 (7) the weather conditions, including whether the
15 minor was left in a location with adequate protection from
16 the natural elements such as adequate heat or light;

17 (8) the location of the parent or guardian at the time
18 the minor was left without supervision, the physical
19 distance the minor was from the parent or guardian at the
20 time the minor was without supervision;

21 (9) whether the minor's movement was restricted, or the
22 minor was otherwise locked within a room or other
23 structure;

24 (10) whether the minor was given a phone number of a
25 person or location to call in the event of an emergency and
26 whether the minor was capable of making an emergency call;

1 (11) whether there was food and other provision left
2 for the minor;

3 (12) whether any of the conduct is attributable to
4 economic hardship or illness and the parent, guardian or
5 other person having physical custody or control of the
6 child made a good faith effort to provide for the health
7 and safety of the minor;

8 (13) the age and physical and mental capabilities of
9 the person or persons who provided supervision for the
10 minor;

11 (14) whether the minor was left under the supervision
12 of another person;

13 (15) any other factor that would endanger the health
14 and safety of that particular minor.

15 A minor shall not be considered neglected for the sole
16 reason that the minor has been relinquished in accordance with
17 the Abandoned Newborn Infant Protection Act.

18 (2) Those who are abused include any minor under 18 years
19 of age whose parent or immediate family member, or any person
20 responsible for the minor's welfare, or any person who is in
21 the same family or household as the minor, or any individual
22 residing in the same home as the minor, or a paramour of the
23 minor's parent:

24 (i) inflicts, causes to be inflicted, or allows to be
25 inflicted upon such minor physical injury, by other than
26 accidental means, which causes death, disfigurement,

1 impairment of physical or emotional health, or loss or
2 impairment of any bodily function;

3 (ii) creates a substantial risk of physical injury to
4 such minor by other than accidental means which would be
5 likely to cause death, disfigurement, impairment of
6 emotional health, or loss or impairment of any bodily
7 function;

8 (iii) commits or allows to be committed any sex offense
9 against such minor, as such sex offenses are defined in the
10 Criminal Code of 1961, as amended, and extending those
11 definitions of sex offenses to include minors under 18
12 years of age;

13 (iv) commits or allows to be committed an act or acts
14 of torture upon such minor; or

15 (v) inflicts excessive corporal punishment.

16 A minor shall not be considered abused for the sole reason
17 that the minor has been relinquished in accordance with the
18 Abandoned Newborn Infant Protection Act.

19 (3) This Section does not apply to a minor who would be
20 included herein solely for the purpose of qualifying for
21 financial assistance for himself, his parents, guardian or
22 custodian.

23 (Source: P.A. 92-408, eff. 8-17-01; 92-432, eff. 8-17-01.)

24 (705 ILCS 405/3-5) (from Ch. 37, par. 803-5)

25 Sec. 3-5. Interim crisis intervention services. (a) Any

1 minor who is taken into limited custody, or who independently
2 requests or is referred for assistance, may be provided crisis
3 intervention services by an agency or association, as defined
4 in this Act, provided the association or agency staff (i)
5 immediately investigate the circumstances of the minor and the
6 facts surrounding the minor being taken into custody and
7 promptly explain these facts and circumstances to the minor,
8 and (ii) make a reasonable effort to inform the minor's parent,
9 guardian or custodian of the fact that the minor has been taken
10 into limited custody and where the minor is being kept, and
11 (iii) if the minor consents, make a reasonable effort to
12 transport, arrange for the transportation of, or otherwise
13 release the minor to the parent, guardian or custodian. Upon
14 release of the child who is believed to need or benefit from
15 medical, psychological, psychiatric or social services, the
16 association or agency may inform the minor and the person to
17 whom the minor is released of the nature and location of
18 appropriate services and shall, if requested, assist in
19 establishing contact between the family and other associations
20 or agencies providing such services. If the agency or
21 association is unable by all reasonable efforts to contact a
22 parent, guardian or custodian, or if the person contacted lives
23 an unreasonable distance away, or if the minor refuses to be
24 taken to his or her home or other appropriate residence, or if
25 the agency or association is otherwise unable despite all
26 reasonable efforts to make arrangements for the safe return of

1 the minor, the minor may be taken to a temporary living
2 arrangement which is in compliance with the Child Care Act of
3 1969 or which is with persons agreed to by the parents and the
4 agency or association.

5 (b) An agency or association is authorized to permit a
6 minor to be sheltered in a temporary living arrangement
7 provided the agency seeks to effect the minor's return home or
8 alternative living arrangements agreeable to the minor and the
9 parent, guardian or custodian as soon as practicable. No minor
10 shall be sheltered in a temporary living arrangement for more
11 than 48 hours, excluding Saturdays, Sundays, and
12 court-designated holidays, when the agency has reported the
13 minor as neglected or abused because the parent, guardian, or
14 custodian refuses to permit the child to return home, provided
15 that in all other instances the minor may be sheltered when the
16 agency obtains the consent of the parent, guardian, or
17 custodian or documents its unsuccessful efforts to obtain the
18 consent or authority of the parent, guardian, or custodian,
19 including recording the date and the staff involved in all
20 telephone calls, telegrams, letters, and personal contacts to
21 obtain the consent or authority, in which instances the minor
22 may be so sheltered for not more than 21 days. If the parent,
23 guardian or custodian refuses to permit the minor to return
24 home, ~~and no other living arrangement agreeable to the minor~~
25 ~~and the parent, guardian, or custodian can be made,~~ the agency
26 may deem the minor to be neglected and report the neglect to

1 the Department of Children and Family Services as provided in
2 the Abused and Neglected Child Reporting Act. The Child
3 Protective Service Unit of the Department of Children and
4 Family Services shall begin an investigation of the report
5 within 24 hours after receiving the report and shall determine
6 whether to take the minor into temporary protective custody and
7 whether to ~~shall~~ file a petition alleging that the minor is
8 neglected or abused as described in Section 2-3 of this Act.
9 The Department may take the minor into temporary protective
10 custody at any time after receiving the report, provided that
11 the Department shall take temporary protective custody within
12 48 hours of receiving the report if its investigation is not
13 completed. No minor shall be sheltered in a temporary living
14 arrangement for more than 48 hours, excluding Saturdays,
15 Sundays and court-designated holidays, without parental
16 consent unless the agency documents its unsuccessful efforts to
17 contact a parent or guardian, including recording the date and
18 time and staff involved in all telephone calls, telegrams,
19 letters, and personal contacts to obtain the consent or
20 authority, in which case the minor may be so sheltered for not
21 more than 21 days.

22 (c) Any agency or association or employee thereof acting
23 reasonably and in good faith in the care of a minor being
24 provided interim crisis intervention services and shelter care
25 shall be immune from any civil or criminal liability resulting
26 from such care.

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1 (Source: P.A. 85-601.)